Supreme Court, U.S.
FILED

No. 02 408 AUG 13 2002

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In The

Supreme Court of the United States

FRANK L. FARROW,

Petitioner,

v.

JOHN E. POTTER, POSTMASTER GENERAL, UNITED STATES POSTAL SERVICE,

Respondent.

On Petition For Writ Of Certiorari To The United States Court Of Appeals For The Eleventh Circuit

PETITION FOR WRIT OF CERTIORARI

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29 pp

QUESTION PRESENTED

The question presented for review is: Does either the U.S. Middle District Court of Florida or the Eleventh Circuit Court of Appeals have the Constitutional authority to unlawfully usurp the Constitutional authority reserved solely for the Jury, in order to conduct an unlawful trial by motion in an alleged effort to aid the United States Postal Service to unlawfully avoid this Petitioner's Fifth Amendment Right to Due Process and his lawful demand for a trial by jury in his civil action secured to this Petitioner by the Seventh Amendment to the U.S. Constitution guaranteeing him his right to a trial by jury in any matter over $20, as well as to allegedly deprive him of his Fourteenth Amendment Right to equal protection under the law?

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OPINIONS BELOW

The order sought to be reviewed is the District Court's Order Granting *Defendant's Motion for Summary Judgment*, entered on September 7, 2001, prematurely and without just cause, before this Petitioner could even begin the *Discovery Phase* of his civil action in order to gather additional evidence to further establish and prove his legitimate charges against the United States Postal Service to an impartial jury for lawful redress.

The Circuit Court of the Eleventh Judicial Circuit affirmed the District Court's Order Granting *Defendants' Motion for Summary Judgment* on April 23, 2002.

The Circuit Court of the Eleventh Judicial Circuit entered its order denying Appellant's *Motion for Rehearing* on June 21, 2002.

BASIS FOR JURISDICTION

This Honorable Court has jurisdiction to hear this matter pursuant to 28 U.S.C. Section 1254(1).

STATUTORY PROVISIONS INVOLVED

The statutes involved in this case are the 1st, 5th, 7th and 14th Amendments to the U.S. Constitution; *The Anti-Retaliation Clause of Title VII* of the Civil Rights Act of 1964 secs. 701-718, as amended, 42 U.S.C.A. secs. 2000e-2000e-17; The 29 CFR 1614; The Federal Rules for Civil Procedure, and the common Law.

STATEMENT OF THE CASE

Citing this Petitioner's *Complaint and Demand for Jury Trial* (Doc 1) filed on May 31, 2001, this Petitioner clearly set forth a viable cause of action, subject matter jurisdiction, and had clearly stated a claim of violation of the *Anti-Retaliation Clause of Title VII* upon which relief could be granted, supported by documented physical evidence submitted in the form of numerous exhibits, as well as circumstantial evidence that was more than sufficient to survive any premature and baseless *Motion to Dismiss*.

Using the standards established by the 11th Circuit Court in the case of *Cynthia L. Taylor v. Marvin T. Runyon, USPS*, No. 97-3202 (11th Cir. May 4, 1999) Appeal from the United States District Court Of Florida, (95-410-Civ-Orl-18), G. Kendall Sharp, Judge, this Petitioner has already submitted sufficient evidence to proceed to a trial by jury and should be permitted to do so without further deprivation of his Seventh Amendment Right.

The USPS has always refused to correct, or even conduct a lawful investigation into, said alleged intentional retaliation through its own biased internal processing, as required by 29 CFR Part 1614.101(b) which clearly states, "No person shall be subject to retaliation for opposing any practice made unlawful by Title VII of the Civil Rights Act."

Furthermore, 29 CFR Part 1614.102(2) requires the USPS to, "provide for the prompt, fair and impartial processing of complaints in accordance with this part and the instructions contained in the Commission's Management Directives," which has never been done due to the

alleged malicious, intentional, and reckless disregard for this Petitioner's rights by the USPS, because of the North Florida District of the USPS's secret, but easily proven, policy of reverse discrimination against white males who exercise their right to file legitimate EEO charges, as per 29 CFR 1614, which is clearly evidenced by the fact that for the past 12 years and continuing, said North Florida District refuses to hire or promote white males into the USPS EEO Dispute Resolutions Department or to lawfully resolve any EEO charges filed by this Petitioner and allegedly utilizes the Postal Management to retaliate, harass, discredit and attempt to coerce any white males, this Petitioner in particular, to be silent on the fact that for the past 12 years, and continuing the USPS NFD Equal Employment Opportunity Dispute Resolution Department has had an unlawful and discriminatory "*no white males allowed*" policy in their EEO Department, which continues to this day and continues to deny this Petitioner his rights even though (Doc 1, Exhibit B) of this Petitioner's *Complaint and Demand for Jury Trial*, (Doc 1) clearly shows that the USPS is fully aware that it is in its own best interest to settle this matter, and it is well within the power of the USPS to do so, but the USPS rather chooses not to even attempt to settle, but instead increases their alleged harassment to silence this Petitioner through all forms of retaliation, due to his prior protected EEO Activities.

The USPS has never provided the Petitioner with a fair and impartial processing of any of his EEO complaints as evidenced by the Petitioner's *Complaint and Demand for Jury Trial*, (Doc 1) and the USPS has never interviewed or taken statements from the Petitioner's witnesses, but merely asked the charged party in the EEO complaint, if they had done anything wrong and since they

said "no", this was sufficient, in their opinion, to show that there was allegedly no retaliation, in direct violation of 29 CFR 1614.102(c)(5) "assuring that individual complaints are fairly and thoroughly investigated and that final decisions are issued in a timely manner in accordance with this part."

This Petitioner has been forced to work in an extremely hostile management environment, which has clearly altered all of the terms and conditions of his employment with the USPS, who, in direct violation of 29 CFR 1614.102(3) absolutely refuses to "conduct a continuing campaign to eradicate every form of prejudice or discrimination from the agency's personnel policies, practices and working conditions," and refuses, in direct violation of 29 CFR 1614.102(6) to, "take appropriate disciplinary action against employees who engage in discriminatory practices," and has chosen instead to conduct an unlawful campaign to maliciously force this Petitioner from the USPS and to forever prevent him from being promoted up to his present skill level of an EAS-24 or EAS-26 Postmaster, as well as to unlawfully prevent him from ever having an EEOC Hearing or a Trial By Jury to correct same and to expose the documented alleged corruption that is wide spread throughout the USPS.

The USPS has even chosen to take unlawful, retaliatory and clearly false disciplinary action against this Petitioner for engaging in known prior protected EEO activities, which has caused the Petitioner great harm in the form of stress; lost wages; lost promotions; legal fees and expenses; and has forever altered the terms and conditions of his employment, which has been clearly established and claimed by this Petitioner over the past 12

years and continuing and can only be remedied with a trial by jury.

The Petitioner contends that his *Complaint and Demand for Jury Trial* (Doc 1) should *NOT* have been prematurely dismissed before he could even begin the *Discovery Phase* of his civil case, thus unjustly depriving him of his Constitutional Right to Due Process and Equal Protection, since Federal Rule of Civil Procedure 12(b)(6) clearly states,

> "This defense, unlike the other numbered ones in Rule 12, addresses the legal sufficiency of a claim as stated by its pleader under Rule 8(a)(2) as "a short and plain statement of the claim showing that the pleader is entitled to relief . . . " In ruling on a 12(b)(6) motion, "a complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that the Plaintiff can prove no set of facts in support of his claim which would entitle him to relief . . . " *Conley v. Gibson*, 355 U.S. 41, 45-46 (1957). *See Hartford Fire Ins. Co. v. California,* 113 S. Ct 1827, 1832 (1989) ("Rule 12(b)(6) does not countenance . . . dismissals based on a judge's disbelief of a complaint's factual allegations."); *Hishon v. King & Spalding*, 104 S. Ct 2229, 2233 (1984). In applying the *Conley* standard, the court will "accept the truth of the well-pleaded factual allegations of the complaint . . . [and] may properly look beyond the complaint only to items in the record of the case or to matters of general public record . . . " *Phillips v. Bureau of Prisons*, 591 F.2d 966, 969 (D.C. Cir. 1979). The court is likely to view the claim in the light most favorable to the claimant, see *H.J. Inc. v. Northwestern Bell Tel. Co.*, 109 S. Ct. 2893, 2906 (1989), but it need not accept legal conclusions and opinions as true, *see Mirin v.*

> *Justices of S. Ct. of Nevada*, 415 F. Supp. 1178, 1190 (D. Nev. 1976). *See also In re Cypress Semiconductor Secs. Litigation*, 864 F. Supp. 957, 958 (N.D. Cal. 1994) ("[T]he court may dismiss the complaint as a matter of law for either of two reasons: (1) the lack of cognizable legal theory, or (2) the pleading of insufficient facts under a cognizable legal theory."). "[A] district court may, in appropriate circumstances, note the inadequacy of the complaint and, on its own initiative, dismiss the complaint . . . Yet a court may not do so without at least giving plaintiffs notice of the proposed action and affording them an opportunity to address the issue." *Literature, Inc. v. Quinn*, 482 F.2d 372, 374 (1st Cir. 1973) While the Rule 12(b)(6) defense is often interposed, **it is viewed by the courts with disfavor and, it is granted in proportionately few cases."**

Federal Rule of Civil Procedure 8(a)(2) states,

> " . . . **Detail under the Rules, is achieved better during the discovery phase of litigation**. The "notice philosophy" embodied in subdivision (a)(2) is best exemplified by case decisions where the sufficiency of the pleader's statement is challenged by a Rule 12 (b)(6) motion to dismiss for failure to state a claim upon which relief can be granted. For example, in *Conley v. Gibson*, 355 U.S. 41, 45-47 (1957), the court said that "a complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief . . . [T]he Federal Rules of Civil Procedure do not require a claimant to set out in detail the facts upon which he bases his claim. To the contrary, all the Rules require is 'a short and plain statement of the

> claim' . . . that will give the defendant fair notice of what the plaintiff's claim is and the grounds upon which it rests."

This Petitioner contacted Clifford Hope, USPS Plant Manager, on May 8th, 2000, informing him of the possible perjury by Daniel Meyer, Manager, Maintenance Operations, in the sworn testimony that Daniel Meyer gave in previous civil case no. 97-1530-Civ-Orl-19C.

The Petitioner gave Clifford Hope, Plant Manager, all of the necessary documents to investigate and take immediate corrective action to resolve this very serious matter, since Clifford Hope stated in USPS EEO Case No. **1H-321-0043-97 (4H-320-0043-97)**, regarding this Petitioner's wrongful termination without just cause, that he does not condone or tolerate this type of alleged improper conduct, even if someone like the Petitioner is knowingly falsely accused of alleged improper conduct by three postal officials involved in pending EEOC Hearings, who could not even convince an arbitrator that this Petitioner was allegedly guilty of their knowingly false and retaliatory charges.

As a direct result, and in violation of the *Anti-Retaliation Clause of Title VII*, Clifford Hope immediately approved Supervisor William Coppage's and Supervisor Richard Kowalewski's unlawful and baseless request for this Petitioner's wrongful termination without just cause, forcing this Petitioner from his Electronics Technician, PS-9, position for 14 months, which has caused harm and stress.

Clifford Hope's intentional choice of being negligent in his duties and refusing to act is clearly being done in

retaliation for the Petitioner's prior protected EEO activity and contrary to Clifford Hope's policy of *zero tolerance* for individuals like Daniel Meyer, who allegedly knowingly and willfully testify falsely in a deposition taken as part of the discovery process in Case No. 97-1530-Civ-Orl-19C, which was unjustly altered and then dismissed before the full case could be presented to an impartial jury without censorship or obstruction, in the United States District Court for the Middle District of Florida and in direct violation of the *Anti-Retaliation Clause of Title VII* and the Seventh Amendment.

Citing the case of the *United States of America v. Diane Parker fka Diane Carpenter*, Case No. 5:98cr00004-001, Diane Parker, former USPS Customer Services Supervisor, in Panama City, FL, was found guilty of making **False Declarations Before Grand Jury or Court (Perjury)** which violated Title 18 U.S.C. sec. 1623, when she answered **"No."** to the question: "Okay. And you have no recollection of taking Mr. Collins up there?" (Doc 1, EXHIBIT B)

The Petitioner provided Clifford Hope, Plant Manager, and the clearly biased North Florida District EEO Dispute Resolution Department with ten times more evidence proving that Daniel Meyer, Maintenance Manager, knew that his ridiculous and clearly allegedly false statements made under oath and testifying in a deposition taken as part of the Discovery Process before the United States District Court for the Middle District of Florida for Case No. 97-1530-Civ-Orl-19C), could not possibly be true, since even if Daniel Meyer actually did have a "packet," which he clearly does not, allegedly giving him "special permission" to withhold all equal opportunity employment from the Petitioner, due to his being clearly more qualified for

higher level details and promotions than all of the managers allegedly chosen to rate his superior skills, this in itself would prove that this Petitioner was retaliated against and intentionally deprived of these same higher level details and promotions due to the fact that NO ONE, not even the Postmaster General, can give Daniel Meyer, Maintenance Manager, "special permission" to deprive this Petitioner of ALL higher level details and promotions which he has already admitted, under oath, that this Petitioner was so clearly the best qualified for these same higher level details and promotions that not even the *Review Panel* that was allegedly put together was qualified enough to rate his superior skills.

Daniel Meyer could not produce these documents when the Petitioner gave him the opportunity to do so **because they do not exist**, not because they are allegedly covered under *The Privacy Act. The Privacy Act* does not give "special permission" to Daniel Meyer to intentionally retaliate against the Petitioner for his protesting the well-known and wide-spread sex-for-career advancement that was encouraged by the postal management, at the time, and is still practiced and is wide-spread today, and then for Daniel Meyer to make wild and allegedly fraudulent claims attempting to legitimize his unlawful actions, under oath, and while testifying in a deposition taken as part of the Discovery Process before the U.S. District Court for the Middle District of Florida.

On May 4, 2000, Daniel Meyer, Maintenance Manager, (white male) through Anthony McConnell, Maintenance Supervisor, provided this Petitioner with ALL of the documents that he claimed were in this alleged "special packet" allegedly giving him permission to willfully deprive this Petitioner of all higher level details and promotions due to his being clearly the best qualified for same. After a

careful and thorough review of these documents, this Petitioner could find absolutely no evidence of any kind supporting Daniel Meyer's wildly false claims of having a "packet" giving him "special permission" to intentionally deprive the Petitioner of all of his higher level details and promotions that were available at that time, due to the Petitioner being clearly the best qualified for all of these same higher level details and promotions and no jury would believe such blatantly allegedly false pretexts.

In the case of the *United States of America v. Diane Parker Fka Diane Carpenter*, Case Number 5:98cr00004-001, Diane Parker, (black female) former USPS Customer Services Supervisor, in Panama City, FL, was found guilty of one count of **False Declarations Before Grand Jury or Court (Perjury)** which violated Title 18 U.S.C. sec. 1623, and was sentenced to 13 months imprisonment and 3 years of supervised probation for the exact same offense allegedly committed by Daniel Meyer, (white male) USPS Maintenance Manager at the Daytona Beach Post Office.

Citing the case of *Cynthia L. Taylor v. Marvin T. Runyon, USPS*, 175 F.3d 861 (11th Cir. May 4, 1999) Appeal from the U.S. District Court of Florida. In said case, 11th Circuit Court Chief Judge Hatchett stated in footnote 2.,

> While we have considered this evidence only as part of the circumstantial evidence in this case, we observe that if we had considered this as a direct evidence case, judgment as a matter of law would be inappropriate. *See Merritt v. Dillard Paper Co.*, 120 F.3d 1189 (11th Cir. 1997); *Carter v. Three Springs Residential Treatment*, 132 F.3d 635, 642 (11th Cir. 1998). "Where the nonmovant presents direct evidence that, if believed by the

> jury, would be sufficient to win at trial, [motion for judgment as a matter of law] is not appropriate even where the movant presents conflicting evidence.'" *Merritt v. Dillard Paper Co.*, 120 F.3d 1189 (11th Cir. 1997) (quoting *Mize v. Jefferson City Bd. of Educ.*, 93 F.3d 739, 742 (11th Cir. 1996)).

REASONS FOR GRANTING THE WRIT

Citing the case of *Turner v. Orr*, 804 F.2d 1223 (11th Cir. 1986) page 1227,

> ". . . A broad interpretation of the scope of Bess' general complaint would be consistent with the policies underlying the consent judgment and Title VII . . . Most importantly, this court has a strong interest in guaranteeing the equal employment opportunities mandated by Title VII. We thus adhere to the policy set out in *Sanchez v. Standard Brands Inc.*: Mindful of the remedial and humanitarian underpinnings of Title VII and of the crucial role played by the private litigant in the statutory scheme, courts constructing Title VII have been extremely reluctant to allow procedural technicalities to bar claims brought under the Act. Consequently, courts confronted with procedural ambiguities . . . have, with virtual unanimity, resolved them in favor of the complaining party."

Again, citing the case of *Hairston v. Gainesville Sun Pub. Co.*, 9 F.3d 913 (11th Cir. 1993), page 919,

> ". . . Courts have recognized that in discrimination cases, an employer's true motivations are particularly difficult to ascertain, see *United*

> *States Postal Service Board Of Governors v. Aikens*, 460 U.S. 711, 716, 103 S. Ct. 1478, 1482, 75 L.Ed.2d 403 (1983) (acknowledging that discrimination cases present difficult issues for the trier of fact, as "[t]here will seldom be 'eyewitness' testimony as to the employers mental processes"), thereby making such factual determinations generally unsuitable for disposition at the summary judgment stage."

Citing the remarkably similar case of *Earnest Diamond v. William J. Henderson, USPS*, N.D. of Ill. (Chicago) No. 99-cv2893, who was also wrongfully terminated by the USPS in retaliation for his protected EEO activity; not only was Diamond provided with his 7th Amendment Right to a jury trial, but the jury was so shocked by the USPS's blatant violations of the *Anti-Retaliation Clause of Title VII*, that they not only awarded Diamond's requested damages for $150,000.00, on 02/07/02, but awarded him an additional $100,000.00 in damages for the USPS's flagrant and irrational violations of his civil and Constitutional Rights, plus legal fees.

Finally, citing a case of *Trevino v. Celanese Corp.*, 701 F.2d 397 (5th Cir. 1983), pages 406-407, section C. Summary Judgment, clearly states,

> ". . . As previously noted, the district court read Trevino's complaint to allege no more than a simple failure-to-hire. When those facts ascertained under the court's limited discovery order failed to fit this particular Procrustean bed, the court concluded that Trevino and Trevino's lawyer were wasting its time, entered summary judgment against Trevino, and awarded attorney's fees to Celanese and ABI. Trevino, however, never made the bed in which he was told to lie, and should not be asked to pay for it.

any genuine issue of material fact." (emphasis added) *Dresser Industries, Limited v. Seaboard Coastline Railroad Company*, 644 F.2d 424 (5th Cir. 1981) ... The district court may normally grant summary judgment only when the moving party has established his right to judgment with such clarity that the nonmoving party cannot recover ... under any discernible circumstance."

Everhart v. Drake Management, Inc., 627 F.2d 686, 690 (5th Cir. 1980).

Citing the case of *Linda J. Patrick v. William J. Henderson, USPS*, Appeal No. 00-2358 (8th Cir.) [U.S. District Court, W. Arkansas No. 99-cv-5168] once again, proves that [the Petitioner is well within his rights to

CONCLUSION

For the foregoing reasons, this petition for a *Writ of Certiorari* should be granted by this Honorable Court.

Respectfully submitted on this 13th day of August, 2002.

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App. 1

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 01-16014

Non-Argument Calendar

D.C. Docket No. 01-00649-CV-ORL-19

FRANK L. FARROW,

Plaintiff-Appellant,

versus

JOHN E. POTTER,
Postmaster General of the
United States Postal Service,

Defendant-Appellee.

Appeal from the United States District Court
for the Middle District of Florida

Before BLACK, MARCUS and FAY, Circuit Judges.

PER CURIAM:

Frank L. Farrow, proceeding *pro se*, appeals the district court's dismissal of his 42 U.S.C. § 2000e, *et seq.*, consolidated complaint, as barred by the doctrine of *res judicata*. On appeal, Farrow reasserts his arguments stated in his original complaints, claiming that: (1) Daniel L. Meyer, Manager of Maintenance Operations, had testified untruthfully in connection with Farrow's 1997 employment discrimination case against the United States Postal Service (USPS); (2) although he informed Plant Manager Clifford N. Hope, Jr., about this matter, Hope refused to take any corrective action; (3) in direct retaliation of this allegation,

ow was continually denied employment opportunities refused access to employment files that allegedly itted Meyers to preclude Farrow's promotion; and (4) discussed Farrow's various Equal Employment Opportuy ("EEO") cases, as well as the details of Farrow's ement agreement of March 1994, relating to various cases, with a colleague.

Farrow fails to challenge in any way on appeal the hict court's ruling that his current claims were barred ie doctrine of *res judicata*. Although *pro se* pleadings held to a less stringent standard than pleadings ed by attorneys and, therefore, will be liberally rued, *Tannenbaum v. United States*, 148 F.3d 1262, (11th Cir. 1998), issues not argued on appeal were hed waived, *Rowe v. Schreiber*, 139 F.3d 1381, 1382 11th Cir. 1998). Accordingly, Farrow has waived a enge to the district court's ruling that his current is were barred by the doctrine of *res judicata*.

As exemplified by the record before this court, Farrow apt *pro se* litigant who has timely and adequately at least 13 federal complaints against the United s Postal Service and its various officials. Farrow does challenge the district court's conclusion that he has ed the judicial system or its ruling forbidding him filing any further lawsuits against the United States l Service. Instead, he attempts to circumvent the 's adverse ruling and argue the merits of his case e this Court.

The record in this matter fully supports the rulings of istrict court.

AFFIRMED.

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

FRANK FARROW,

Plaintiff,

vs. CASE NO. 6:01-CV-649-ORL-19DAB

JOHN E. POTTER,
Postmaster General
of the United States
Postal Services,

Defendant.

FRANK L. FARROW,

Plaintiff,

vs. CASE NO. 6:01-CV-832-ORL-19JGG

JOHN E. POTTER,
Postmaster General,
United States
Postal Service,

Defendant.

ORDER

(Filed Sep. 7, 2001)

In December of 1997, Plaintiff Frank Farrow sued the Postmaster General of the United States Postal Service (then William J. Henderson), Local American Postal Workers Union 1672, the American Postal Worker Union AFL-CIO, and Russell E. Olsen in Case Number 6:97-CV-1530-ORL-19JGG alleging, *inter alia*, unlawful employment

practices against Plaintiff on the basis of race, color, and sex, retaliation for opposing unlawful employment practices in violation of Title VII, 42 United States Code § 2000e, 1981, 1983, 1985 and 1986 and violation of the duty of fair representation. Plaintiff alleged wrongful discharge from his employment with the United States Postal Service in Daytona Beach, Florida on January 6, 1997, reinstatement on March 28, 1998, failure to promote, failure to allow him to update his test scores for promotion, and delay in promotion in violation of Title VII of the Civil Rights Act, retaliation for filing a complaint with the Equal Employment Opportunity Commission (EEOC), breach of a settlement agreement, unlawful disparate treatment, and wrongful discharge by the Defendant Post Office, among other allegations. In amended complaints filed July 22, 1998 (Docket No. 17) and October 23, 1998 (Docket No. 35), Plaintiff named solely the Postmaster General as Defendant. On cross motions for summary judgment, the Court entered judgment in favor of Defendant Post Office (Docket Numbers 95 and 100, filed March 31, 2000 and April 7, 2000, respectively) on all of Plaintiff's claims except one claim which Plaintiff then dismissed with prejudice (Doc. No. 102, filed April 14, 2000). Plaintiff filed an appeal (Doc. No. 106, filed April 28, 2000), and on January 2, 2001 the appellate court entered its order affirming the trial court in an order relating the facts and law of the case (Doc. No. 111, filed March 21, 2001).[1]

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[1] The ~~Appellate Court decision noted that~~ Plaintiff had filed approximately 45 complaints with the EEOC from 1992 through 1995.

Since this time Plaintiff has filed several more complaints against his former employer in this Court:

1. On January 20, 1998 Plaintiff Frank L. Farrow filed suit against Marvin T. Runyon, Jr., Postmaster General, United States Postal Service, Case No. 6:98-CV-055-ORL-19JGG challenging as discriminatory the termination of his employment by the United States Postal Service. After this case was consolidated with Case No. 6:97-CV-1530-ORL-19JGG, Plaintiff agreed to dismiss it and file an Amended Complaint encompassing all of his claims in Case No. 6:97-CV-1530-ORL-19JGG. The Court so ordered on November 17, 1998.

2. On March 6, 1998 Plaintiff Frank L. Farrow filed suit against the United States Postal Service, the American Postal Workers Union AFL-CIO, the American Postal Workers Union Local No. 1672 and Russell E. Olsen, Case No. 6:98-CV-253-ORL-19JGG, alleging unlawful discharge from employment by the United States Postal Service and breach of duty, of fair representation by the Union and Mr. Olsen. On November 17, 1998 this case was dismissed by Order of Court on Plaintiff's stipulation that he would file all claims encompassed in Case No. 6:97-CV-253-ORL-19JGG in an Amended Complaint in Case No. 6:97-CV-1530-ORL-19JGG. No Amended Complaint joining a union as Defendant was thereafter filed in Case No. 6:97-CV-1530-ORL-19JGG.

3. On March 13, 1998 Plaintiff Frank L. Farrow filed a complaint against Marvin T. Runyon, Jr., Postmaster General, United States Postal Service, Case No. 6:98-CV-290-ORL-19JGG claiming damages for wrongful termination of his employment. This case was dismissed on November 17, 1998 by Order of the Court on Plaintiff's

stipulation that he would file an Amended Complaint in Case No. 6:97-CV-1530-ORL-19JGG encompassing all of his claims.

4. On May 4, 198 Frank L. Farrow filed suit against Marvin T. Runyon, Jr., Postmaster General, United States Postal Service, Case No. 6:98-CV-521-ORL-19JGG, alleging wrongful termination of employment and breach of a settlement agreement. This case was dismissed by Order of Court dated November 17, 1998 on Plaintiff's stipulation that he would file all of his claims in an Amended Complaint in Case No. 6:97-CV-1530-ORL-19JGG.

5. On May 19, 1998 Plaintiff Frank L. Farrow filed suit against William J. Henderson, Postmaster General, United States Postal Service, Case No. 6:98-CV-590-ORL-19JGG, alleging, inter alia, wrongful termination of employment, violation of civil rights, violation of the United States Postal Service National Contract, and violation of an Equal Employment Opportunity Commission settlement and Arbitrator's order. This case was dismissed on November 17, 1998 on Plaintiff's stipulation that he would file all of his claims in an Amended Complaint in Case No. 6:97-CV-1530-ORL-19JGG.

6. The case of Frank Farrow v. William J. Henderson, Postmaster General, United States Postal Service, Case Number 6:98-CV-635-ORL-18JGG, was filed on June 1, 1998, alleging employment discrimination relating to Plaintiff's former employment with the United States Postal Service. This case was dismissed without prejudice by the Court on Plaintiff's motion.

7. On August 4, 1998 Plaintiff Frank L. Farrow filed suit against William J. Henderson, Postmaster General,

United States Postal Service, Case No. 6:98-CV-894-ORL-19JGG, alleging, inter alia, wrongful discharge from employment on the basis of sex, violation of the Family Medical Leave Act, and retaliation. This case was dismissed on November 17, 1998 by Order of Court on Plaintiff's stipulation that he would file all of his claims in an Amended Complaint in Case No. 6:98-CV-1530-ORL-19JGG.

8. On October 19, 1999 Plaintiff Frank L. Farrow filed a complaint against William J. Henderson, Postmaster General, United States Postal Service, Case Number 6:99-CV-1334-ORL-19JGG, alleging wrongful discharge from employment and violation of his civil rights, conspiracy to deprive Plaintiff of his civil rights, retaliation, employment discrimination, and other claims based on the facts and circumstances which were the subject of pending Case Number 6:97-CV-1530-ORL-19JGG. This case was dismissed by Order of Court (Docket Number 7, filed November 16, 1999), *inter alia*, for failure to comply with the Case Management and Scheduling Order entered in 6:97-CV-1530-ORL-19JGG after Plaintiff had filed seven other complaints against his former employer alleging essentially the same facts.[2] Plaintiff Farrow filed an appeal in this case (Doc. No. 11, filed February 1, 2000), which was dismissed for want of prosecution (Doc. No. 15, filed April 14, 2000).

9. On December 12, 2000 Plaintiff Frank L. Farrow filed suit against William J. Henderson, Postmaster

[2] The Order at Docket Number 7 is attached hereto.

General, United States Postal Service, Case Number 6:00-CV-1648-ORL-22DAB, alleging intentional retaliation, wrongful termination, disparate treatment and unlawful employment practices by Plaintiff's employer, the United States Post Office. The facts and circumstances alleged in this case are essentially the same that were alleged in the previously filed cases. This case was dismissed with prejudice by Order of Court on August 8, 2001 (Doc. No. 31) for failure of Plaintiff to state a cause of action.

10. On March 23, 2001 Plaintiff Frank L. Farrow filed suit against William J. Henderson, Postmaster General, United States Post Office, The American Postal Worker's Union AFL-CIO, and the American Postal Workers Union Local No. 1672, Case Number 6:01-CV-371-ORL-22JGG, alleging violation of fair representation, breach of the collective bargaining agreement, and an unlawful arbitration decision rendered February 10, 2001 arising out of his employment as a postal worker and subsequent allegedly wrongful termination of employment. This case is pending.

11. On May 31, 2001 Plaintiff Frank L. Farrow filed suit against William J. Henderson, Postmaster General, United States Postal Service, Case Number 6:01-CV-649-ORL-19DAB, alleging retaliation, and unlawful employment practices in violation of Title VII of the Civil Rights Act incident to his employment as a postal worker. The facts and circumstances of this case are the same as those contained in Case No. 6:97-CV-1530-ORL-19JGG. This case is pending.

12. On July 13, 2001 Plaintiff Frank L. Farrow filed suit against John E. Potter, Postmaster General, United States Postal Service, Case No. 6:01-CV-832-ORL-19JGG

alleging retaliation and unlawful employment practices of Defendant. The facts and circumstances alleged in this suit arise from the same transactions and occurrences which were the subject of the first lawsuit Plaintiff filed against his former employer, 6:97-CV-1530-ORL-19JGG, as well as several of the other lawsuits referenced above. The allegations of the Complaint in this case are nearly identical to the Complaint filed in Case No. 6:01-CV-649-ORL-19JGG. This case is pending.

CONCLUSION

Plaintiff has abused his access to this Court. He has filed 13 cases all relating to the circumstances of his employment and discharge by the United States Postal Service. Even after his claims against his employer were adjudicated, appealed, and an Order of the appellate court was entered affirming the judgment of the trial Court, Plaintiff has continued to file new lawsuits containing claims against his former employer concerning the same transactions and occurrences which were adjudicated in Case No. 6:97-CV-1530-ORL-19JGG. His lawsuits have taken the time and attention of several Judges on this Court at a time when the Court carries a heavy caseload.

Case Numbers 6:01-CV-832-ORL-19JGG and 6:01-CV-649-ORL-19DAB are **DISMISSED WITH PREJUDICE** on the ground that the issues between Plaintiff and his former employer, the United States Postal Service, relating to his employment have been finally adjudicated. These cases constitute successive cases and are barred by the doctrine of res judicata. *See Citibank N.A. v. Data Lease Financial Corp.*, 904 F.2d 1498, 1501 (11th Cir. 1990).

Henceforth, Plaintiff shall be barred from filing any future lawsuit in this case against his former employer, the Postmaster General and United States Postal Service, relating to the facts and circumstances of such employment. *See Harrelson v. United States*, 613 F.2d 114, 116 (5th Cir. 1980)[3] (finding that while res judicata and collateral estoppel are usually sufficient to protect defendants against repetitious litigation, a district court may enjoin a litigant from all future litigation on a specific cause of action); *see also Procup v. Strickland*, 760 F.2d 1107, 1111 (11th Cir. 1985) (recognizing that "where principles of res judicata. and collateral estoppel have proven inadequate to deter abuse, litigants have been enjoined from relitigating specific claims or filing repetitive appeals from a particular adverse ruling"); *Hill v. Estelle*, 543 F.2d 754 (5th Cir. 1976). Sanctions may be imposed against Plaintiff for violation of this Order.

DONE AND ORDERED at Orlando, Florida, this 7th day of September, 2001.

/s/ Patricia C. Fawsett
PATRICIA C. FAWSETT
UNITED STATES DISTRICT JUDGE

Copies to:

All Counsel of Record and Plaintiff

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[3] In *Bonner v. City of Prichard*, 661 F.2d 1206, 1209 (11th Cir. 1981), the Eleventh Circuit adopted as binding precedent all decisions handed down by the former Fifth Circuit before October 1, 1981.

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 01-16094-CC

FRANK L. FARROW, Plaintiff-Appellant,

versus

JOHN E. POTTER,
Postmaster General of the United States Postal Service,

Defendant-Appellee.

On Appeal from the United States District Court for the Middle District of Florida

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(Filed Jun. 21, 2002)

BEFORE: BLACK, MARCUS and FAY, Circuit Judges.

PER CURIAM:

The petition(s) for rehearing filed by Appellant is DENIED.

ENTERED FOR THE COURT:

/s/ Peter T. Fay
UNITED STATES CIRCUIT JUDGE